

Appl. No. 09/432,338
Att. Docket No. 10191/1157
Response To Office Action of 10/03/03

REMARKS/RESTRICTION RESPONSE

In the October 3, 2003 Office Action, restriction was required as to Group I of claims 8-52, Group II of claims 53-82, Group III of claims 83-87, and Group IV of claims 88-90.

The dependency of claim 90 has been corrected to depend from claim 88 (and not claim 84), as observed by the Examiner.

Group III of claims 83 to 87 is provisionally elected with traverse, since it is believed that Group III of claims 83 to 87 and Group IV of claims 88 to 90 should be examined together, as is proper under the applicable statute, the law and the rules.

The traversal is as follows:

The Office Action asserts that Group III is drawn to a “method of adjusting timing in an internal combustion engine”, and that Group IV is drawn to an “arrangement capable of actuating a valve”. In fact, claim 83 is directed to a “method of activating an electromagnetic consumer having a movable element, the electromagnetic consumer being a solenoid valve for controlling a metering of fuel into an internal combustion engine, the method comprising: determining within a time window a switching instant at which the movable element has reached a certain position; defining a duration of the time window so that the current flowing through the consumer during the time window does not exceed a threshold value; and reducing the duration of the time window if the current is greater than the threshold value”. Claim 88 includes the same language as claim 83 except that claim 88 is directed to an arrangement or apparatus for performing the method, and claim 83 is directed to the method. In particular, claim 88 is directed to an “arrangement for activating an electromagnetic consumer having a movable element, the electromagnetic consumer being a solenoid valve for controlling a metering of fuel into an internal combustion engine, the arrangement comprising: a determining arrangement to determine within a time window a switching instant at which the movable element has reached a certain position, and to define a duration of the time window so that the current flowing through the consumer during the time window does not exceed a threshold value; and a reducing arrangement to reduce the duration of the time window if the current is greater than the threshold value”. Accordingly, the distinction drawn in paragraphs one (1) and five (5) of the Office Action are simply not sustainable.

In particular, the assertions made in paragraph Five (5) as to Groups III and IV are not supportable or sustainable in view of the fact that the subject matter of claims 83 to 87 and

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claims 88 to 90 are not distinct. For example, the method of independent claim 83 can only be performed with the arrangement of independent claim 88, and the arrangement of claim 88 can only perform the method of claim 83. Accordingly, claims 83 to 90 should be examined together, since they are not related as product and process of use as characterized in the Office Action, since claims 83 to 87 and 88 to 90 are simply not distinct for the foregoing reasons, and since they recite essentially verbatim the same features.

Accordingly, claims 83 to 90 should be examined together, with claims 8 to 82 being withdrawn subject to the restriction response.

CONCLUSION

In view of the foregoing, it is believed that the restriction has been addressed, and that claims 83 to 90 are ready for examination, with claims 8 to 82 being withdrawn. It is therefore respectfully requested that the claims be examined as early as possible.

Respectfully submitted,
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